

## WALPOLE PLANNING BOARD MINUTES OF NOVEMBER 6, 2014

A regular meeting of the Planning Board was held on Thursday, November 6, 2014 at 7:00 p.m. in the Main Meeting Room at Town Hall. The following members were present: John Conroy, Chairman; Richard Mazzocca, Vice Chairman; John Murtagh, Clerk; Edward Forsberg, Richard Nottebart, and Margaret Walker, Town Engineer.

**Minutes:** Mr. Conroy moved to accept the minutes of September 2, 2014 Special Meeting, October 2, 2014 and October 16, 2014. Motion seconded by Mr. Mazzocca and voted 5-0-0.

**Town Planner:** The board agreed that they wanted to meet with Jim Johnson, Acting Town Administrator, to discuss the Town Planner position. Mr. Nottebart stated he will contact Mr. Johnson to find out when he can meet with us regarding the Planner position.

**Filing Fees:** Mr. Forsberg moved to set the filing fees for bond reductions as follows: The request for the setting of the bond and the first bond reduction is free; the second and third reduction is \$150 and the fourth reduction and any more would be \$500.00. It was also agreed keep a 25% retainage. Motion seconded by Mr. Mazzocca and voted 5-0-0.

**LA Realty Trust, 119 Pleasant Street:** Mr. Mazzocca moved to endorse the site plan for 119 Pleasant Street, Case No. 14-8 as reviewed by Ms. Walker, Town Engineer. Motion seconded by Mr. Forsberg and voted 4-0-1 (Mr. Conroy abstained). Mr. Macchi took the plans and will submit copies.

**Winter Estates:** Mr. Forsberg moved to set the bond for Winter Estates at \$500,000 as per recommendation of Margaret Walker, Town Engineer. Motion seconded by Mr. Conroy and voted 5-0-0.

**Northridge Farm Bond Reduction:** Mr. Forsberg moved to reduce the bond on Northridge Farm to \$175,000 per recommendation of Margaret Walker, Town Engineer. Motion seconded by Mr. Conroy and voted 5-0-0.

**ANR – Bickford, Portion of 7 Woodland Road:** The applicant, Joseph Bickford, was represented by Atty. Tom Nannicelli, Norwood. He stated the ANR will reduce but not eliminate the non-conformity of their lot. Mr. Conroy noted that the other lot will not become non-conforming and Atty. Nannicelli agreed. Mr. Nottebart stated that the lots were laid out in 1928. Mr. Conroy moved to endorse an ANR plan of land entitled “7 Woodland Road, ANR – Subdivision of Land in Walpole, Massachusetts, Norfolk County” dated March 25, 2014 by DGT Survey Group, 803 Summer Street, Boston, MA finding Form A in order and subdivision control not required. Motion seconded by Mr. Mazzocca and voted 5-0-0. It was noted that Lot 17 and parcel A are owned by Bickford; Proposed Lots B-1 and B-2 are owned by Ford. Lot B-1 is to be combined with Parcel A and Lot 17 to comprise one lot containing 12,383 +/- s.f. All parcels are in the GR zone. The applicant is Joseph and Gail Bickford, 1 Woodland Road, East Walpole.

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The owner's name is Charles and Eileen Ford, 7 Woodland Road, East Walpole. The owner's title to the land is derived under deed from Louis and Kelly Rodophele dated December 22, 2008 and recorded in Norfolk County Registry of Deeds, Book 26775, Page 188.

**Oakwood Estates:** The board agreed to schedule a residents' hearing on December 4<sup>th</sup>.

**Tall Pines Subdivision:** Mr. Conroy moved to reduce the bond on Tall Pines to \$131,000 as per recommendation of Margaret Walker. Motion seconded by Mr. Forsberg and voted 5-0-0.

**7:40 p.m. Legacy Lane Residents' Hearing:** Mr. Conroy moved to release the subdivision bond being held for Legacy Lane as per request of the applicant and recommendation of Margaret Walker, Town Engineer. Motion seconded by Mr. Nottebart and voted 5-0-0.

Mr. Forsberg moved to release the off-site bond being held for McKinley Avenue as per request of the applicant and recommendation of Margaret Walker, Town Engineer. Motion seconded by Mr. Conroy and voted 5-0-0.

**7:45 p.m. Al Marhama Islamic Burial Services Continued Hearing, Case No. 14-11:** Mr. Conroy moved to continue this hearing without testimony to December 4, 2014 at 7:45 p.m. as per request of the applicant's engineer, Christian Farland and attorney, Jay Peabody. Motion seconded by Mr. Forsberg and voted 5-0-0.

**7:47 p.m. Sunny Rock II Open Space Residential Development Special Permit Continued Hearing:** The applicant was represented by Atty. Vincent O'Brien and John Glossa, Glossa Engineering. Revised plans had been submitted previously by Mr. Glossa and also correspondence from Atty. O'Brien explaining how the lot count was calculated and also addressing questions raised by Margaret Walker, Town Engineer and Landis Hershey, Conservation Agent. He stated that to meet the requirements of the Conservation 25' no-disturb zone, they reduced the lot size and also pulled them farther away from the wetlands. Atty. O'Brien stated he received correspondence dated October 30 from the board's consultant, Wayne Feiden which states that the board has the right to grant waivers for dead end streets with access onto Fisher Street. He suggested some of the things they could give back to the town for these waivers. He also suggested the sidewalk be cement instead of asphalt, which is something to be discussed as it doesn't matter to the applicant. Mr. Glossa showed the board the changes to the plan. He stated there is a stream that dries up every summer, which was considered a perennial stream, but it was agreed that it is not. He also identified the open fields. He stated the other areas are wooded with mostly small trees. He stated they will massage this plan even further if they get a good feeling to go forward tonight. They also missed the requirement to list out the lot sizes which go from 11,000 s.f. to 40,000 s.f. Also, the applicant plans to bring the sewer from Walden Drive into this property. They are in compliance with what is laid out by the special

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permit process. Atty. O'Brien stated that some of the specific details asked for by Wayne Feiden are already on the plan.

Mr. Conroy stated this is somewhat complicated and because our consultant can't be here all the time he suggests they respond to us and him in a different color so we can follow the changes more easily. He read correspondence from the deputy fire chief and also from conservation. He suggested they meet with the Conservation Agent, Landis Hershey to discuss her comments. Mr. Glossa and Atty. O'Brien agreed to that.

Atty. O'Brien stated this was shown as one big parcel as the concept was they have a large piece of property and what is the best use for it. They placed the larger lots along North Street and the traditional lots along Fisher Street. Mr. Forsberg questioned the lot count and feels they should have numbered the lots they have taken out to ensure the count will come out the same. We need to see the ending total. Atty. O'Brien explained how they came up with the count. Mr. Conroy asked for an explanation along with a plan. Atty. O'Brien agreed as it will be easy for everyone to see. Mr. Glossa stated it is already on there. Mr. Conroy stated we need to have this in case someone asks for it. Atty. O'Brien stated he understands what the board wants. Ms. Walker asked at what point is the board going to entertain the dead-end waiver because without that waiver everything else is moot. Mr. Conroy stated we need Mr. Feiden and Ms. Hershey's comments addressed first. Ms. Walker asked if it will be before the board votes the open space plan and Mr. Conroy stated yes as we need the exact amount of yardage. Ms. Walker stated there will be a Homeowners' Association also.

Mr. Conroy asked for public comments.

Joe Moraski, Buckboard Drive stated the neighborhood continues to appreciate the fact that any plans here don't have access onto North Street. He asked if the plan dated August 4 is still in effect or are there different plans with substantial changes. Mr. Glossa stated there is no access shown to North Street and the lot count is the same. Also, the roadway was moved a little. Mr. Moraski stated the Planning Board legal notice to the town that appeared in the Walpole Times on August 21, 2014 states we are talking about 31.07 acres under the open space plan. Consequently, he feels that is what we should see on the conventional plan. It is impossible for a conventional plan having 31.07 acres to have 35 lots. He feels the plan has problems. Some of the lots have been sold and some still belong to the Buttimer Family Trust; however, they do not meet the definition in Section 10 of the Zoning Bylaw with regard to plan requirements. The word used is "buildable" but some of these lots are already sold and should be taken out of any determination for lots to be built. This also includes Olmsted Estates. Mr. Moraski feels we are setting a precedent here. The Planning Board is asking the applicant's attorney to provide information to them as to how they got the plan count. He feels we should go to our own town counsel and also our town engineer for input. We need to come up with an actual number of lots

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and also see a legitimate conventional plan. He asked if an open space plan requires a super-majority vote of the Planning Board and Mr. Conroy stated yes. He asked if we use the Mullin Rule and Mr. Conroy stated no. Mr. Conroy stated they need to present what they think and we can either agree with it or refute it.

Phil Sanford, North Street asked when we have 31 acres, don't you have to net out space for the road out of that, which would reduce the lot numbers. Mr. Conroy stated they are requesting to do an open space development on 31 acres with a lot of dead space. We will ask town counsel for her opinion.

Mr. Sanford again questioned the road and asked if it has to be cut out. Mr. Conroy stated that is why the math doesn't work. We will take their opinion and forward it to town counsel as to whether or not this is properly before the board.

Mr. Murtagh asked if the Olmsted Estates eleven lots and six on North Street have been subtracted from the Open Space Plan and Atty. O'Brien stated yes. Mr. Glossa stated that 52 lots in total get developed if this is approved the way it is right now. Mr. Murtagh questioned the waivers and asked what "PDA" as shown on the plan means. Atty. O'Brien stated "Potentially Developable Areas". Mr. Glossa stated they will work the best they can with the Planning Board and also within the zoning bylaw, but there has to be a balance. Mr. Conroy stated they had asked if they could meet with Wayne Feiden. He is the planner, so to speak. You will probably have to go to Northampton to meet with him. Michael Viano stated he met with him today in Worcester, so he is all set. Mr. Feiden will comment to the board. He stated he likes the green, but not the wooded part. He liked the trails that were added because of the comments from Al Goetz, Conservation Commission. Atty. O'Brien stated they were not in agreement with his suggestion to have a direct street out.

Mr. Forsberg stated that yield has been a question since day one. He asked if we know that each lot has the proper upland and frontage and lot size. Mr. Glossa stated yes, and he will add that to the plans. Mr. Forsberg stated he would like to see that added as that would let us know these are buildable lots. Mr. Glossa stated that the pieces of land that are 100% wetlands will be given to the town and he will talk to Ms. Hershey about that. Atty. O'Brien stated they have said that right from the beginning. Mr. Glossa stated when they take those pieces out they will still have more than the required 20 acres. Atty. O'Brien stated their proposal has never changed. The statute says show us what you want to do and show us what you can do. Mr. Mazzocca asked how many lots would you really put in. You would never come before this board and ask us to approve a plan like this. The number of lots is far less than the yield plan. It is tough for us as a board to evaluate this open space development when we don't know what is the trade off. Mr. Viano stated the plan does meet what the bylaw requires.

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Sean McEntee stated they haven't done a plan because they thought the board was receptive to this plan. More of the gross amount of land would be developed if they didn't do an open space plan. Ms. Hershey's opinion is not favorable because it is near the wetland. That is just her opinion. We have tried to research the open space and he feels we do need an opinion from town counsel on the yield plan. If she says no, they will do a definitive subdivision. Mr. Forsberg likes the open space plan but we need to make it work and do it right. He wants to make sure they are proper lots. Mr. Glossa stated the perimeter of this land is surveyed land. They have an ANRAD from Conservation and they will make sure that each lot is in compliance with the underlying zone. Mr. Viano stated that the two 4+ acre lots on North Street would allow them to do a little 4-lot subdivision, but it would have looked lousy in their opinion which is a business and design decision. Mr. Nottebart stated when we did those "discussion only" meetings, they were not binding. He would like to be more informed on this. He asked if they are through with Conservation and Mr. Glossa stated yes they were issued an ANRAD. The process is that you used to do a subdivision and then file an NOI. That creates havoc with the Planning Board and applicant. DEP also came up with a public hearing process. Mr. Nottebart asked how many homes they can build and still avoid the wetlands. Mr. Viano stated 52 homes. Atty. O'Brien stated they need to design around the wetlands and still conform to the rules and regulations. He needs to read Ms. Hershey's letters as he doesn't understand what she is saying, but he just received a copy of her letter tonight. Mr. Nottebart asked at what stage they can meet with her and Mr. Glossa stated they won't file anything with them until the Planning Board has given them a special permit. Atty. O'Brien stated they have been meeting with them regarding the Olmsted Estates project and also have discussed the wetlands. They expect an Order of Conditions on October 12. He stated they have seen the whole thing and know it is a multi-prong process, with the ANRAD first. Mr. Nottebart stated the plan was originally dated July 2, 2014 and revised only once on October 16. Mr. Glossa stated that is correct. Mr. Nottebart questioned the stream on the North Street side and asked what it is. Mr. Glossa stated as part of the ANRAD process, they needed a determination as to whether or not it was an intermittent stream or perennial. The wetland consultant presented information that it is intermittent and some of the direct abutters said the water doesn't even flow in the summer. The Conservation Commission ruled on that also. Mr. Nottebart questioned the perennial stream and the yield. Mr. Glossa stated they plan to meet with Ms. Hershey to discuss this. Mr. Nottebart stated he will talk to her also. Mr. Forsberg questioned donating some land to the Conservation Commission. Mr. Glossa stated he has walked this and the wetlands are wooded swamp, not marshy. People who don't know wetlands don't know these are wetlands. Mr. Forsberg asked how we would access this property to hike on it. Mr. Conroy suggested they keep this property and pay the taxes on it. We don't need wet land. Mr. Viano stated he walked this entire site in late spring. They will build trails where they are shown on the plan and he would accept that as a condition of approval. Mr. Forsberg stated he is still surprised that the Deputy Fire Chief didn't want an access road from North Street. He personally feels it is a safety issue.

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He will talk to him personally before the next meeting. Mr. Conroy stated they need to meet with Landis and Wayne Feiden regarding how they arrived at the lot count.

There were no further comments. Mr. Conroy moved to accept an extension of time up to and including January 31, 2015 from Mr. O'Brien. Motion seconded by Mr. Mazzocca and voted 5-0-0. Mr. Conroy continued this hearing to December 18, 2018 at 7:10 p.m.

It was moved, seconded, and voted to adjourn. The meeting adjourned at 9:20 p.m.

Respectfully submitted,

John Murtagh, Clerk

Accepted 11/20/14